

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

ANTHONY MICHAEL DELAROSA,

No. 2:15-cv-02379-JR

Petitioner,

ORDER

v.

JOHN MYRICK, Superintendent,
Two Rivers Correctional Institution,

Respondent.

HERNÁNDEZ, District Judge:

Magistrate Judge Russo issued a Findings and Recommendation [83] on September 9, 2019 in which she recommends that the Court deny the Second Amended Petition for Writ of Habeas Corpus [31] and enter a judgment of dismissal. Petitioner filed timely objections to the Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

The Court has carefully considered Petitioner's objections and concludes that the objections do not provide a basis to modify the recommendation. The Court has also reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court adopts Magistrate Judge Russo's Findings and Recommendation [83]. Accordingly, the Court DENIES the Second Amended Petition for Writ of Habeas Corpus [31] and DISMISSES this case. However, the Court issues a Certificate of Appealability on the claim of ineffective assistance of counsel raised in Petitioner's third claim for relief.

IT IS SO ORDERED.

DATED this 15 day of January, 2020.


MARCO A. HERNÁNDEZ
United States District Judge